

CHAPTER 20

LEAD BASED PAINT REQUIREMENTS

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1. INTRODUCTION

The purpose of this chapter is to provide information and guidelines on the Federal lead-based paint (LBP) regulations. Additional program related information is also located in the following chapters: Chapter 12 – Monitoring, Chapter 14 – Program Income, Chapter 16 – Housing Rehabilitation, and Chapter 17 -- Home Buyer Assistance.

HUD issued these regulations to protect adults and young children from LBP hazards in housing built prior to 1978 that is financially assisted or sold by the Federal government. Children six and under are particularly vulnerable since lead poisoning can cause significant injury, including permanent brain damage, reduced intelligence, and behavioral problems. A large percentage of children with lead poisoning are in low-income families living in older homes with heavy concentrations of LBP.

The most common source of lead exposure is dust from deteriorated LBP and lead contaminated soil. Due to increased understanding of the harmful effects of lead exposure on children and adults, Federal LBP requirements have become more stringent.

2. GRANTEE RESPONSIBILITIES

All CDBG grantees are required to follow the Federal LBP regulations as listed in 24 CFR 35 in implementing their activities. Part J is for Housing Rehabilitation Programs, and part K is for Homebuyer Assistance Programs. Essentially, grantees are responsible to inform residents of the potentials of LBP hazards in their home, evaluate the degree of LBP hazards, mitigate these hazards, provide clearance on the rehabilitated areas affected by the LBP work, and provide all appropriate notices.

3. EFFECTIVE DATE –CDBG STATE PROGRAM

There have recently been two phases of reform in the LBP hazard regulations. Regulations regarding “working safely” with lead took effect on November 15, 1999. The second phase occurred when HUD published new regulations streamlining all LBP hazard requirements for CDBG grants. CDBG grants with award letters dated on or after September 15, 2000 are subject to the new regulations; however, implementation was delayed until January 10, 2002. Jurisdictions with an award letter prior to September 15, 2000 are not subject to the LBP regulations. Once a jurisdiction receives an award after September 15, 2000 for an activity subject to the LBP regulations, then all activities subject to LBP rules, including PI are subject to the LBP regulations.

Each set of regulations are in effect for houses and residences built prior to January 1, 1978 (As of January 1, 1978, LBP was banned nationwide for residential use). For the CDBG program, these new regulations largely apply to housing acquisition and rehabilitation of residences.

These new regulations may be found in Title 24, Part 35 of the Code of Federal Regulations (24 CFR 35) or on the Internet at www.access.gpo.gov/nara/cfr/waisidx_01/24cfr35_01.html

4. CRITICAL LAWS OR REGULATIONS PERTAINING TO LBP

If other Federal, State, tribal or local law, ordinance, code or regulation are applicable to the CDBG activity, the more protective definition shall apply. Following are critical state and federal laws and regulations pertaining to LBP hazards.

Federal

- 24 CFR Part 35 – Lead Based Paint Prevention in Certain Residential Structures (HUD)
- Toxic Substances Control Act Section 406 - Requirements of Hazard Education Before Renovation for Target Housing
- 40 CFR Part 745 – Identification of Dangerous Levels of Lead (EPA)

State

- Title 17 Sec. 35000 – Accreditation, Certification, and Work Practices for LBP and Lead Hazards (DHS)
- CalOSHA Title 8 Sec. 1532.1 – Construction Safety Orders – Lead
- CalOSHA Title 8 Sec. 5194 – Hazardous Communication
- Civil Code 1102-1102.16 –Real Estate Lead Hazard Disclosure Requirements (HUD also has its own disclosure requirements. See next section.)
- Proposition 65 – Safe Drinking Water and Toxic Enforcement Act of 1986

Local

- Check with your city or county for applicable local codes.

5. SIGNIFICANT EXEMPTIONS (24 CFR 35.115)

HUD's LBP requirements do not apply to:

- Dwellings completed on or after 1/1/78,
- Housing exclusively for the elderly or person with disabilities, unless a child under age six resides (100 days or longer) or is expected to reside there,
- Zero bedroom dwellings, including efficiency apartments, single-room occupancy housing, dormitories, or military barracks,
- Housing found by certified inspection to be free of LBP,
- Housing in which all LBP has been properly identified, removed, and cleared (This does not apply where enclosure or encapsulation has been used as a method of abatement),
- Unoccupied reconstruction housing that will remain vacant until it is demolished to the foundation,
- Non-residential property: Property or part of a property that will not be used for human residential habitation. Not exempt are common use areas, such as entryways, hallways, corridors, passageways, stairways or building exterior in a mixed-use building.
- Rehabilitation that does not disturb a painted surface,
- Emergency repair action, which are those needed to safeguard against imminent danger to human life, health or safety, or to protect property from further structural damage, and
- Historical sites/dwellings may use interim controls instead of abatement, under certain conditions.

For a complete list of exemptions see 24 CFR Part 35.115, referenced in the Appendix VI-A of this chapter.

6. WORKING SAFELY WITH LEAD (24 CFR 35.1350)

HUD's LBP regulations establish *safe work* practices which must be followed at all times. The exception to this rule is if the painted area to be affected falls within the de minimis levels. These are:

- 20 sq. ft.(2 sq. meters) on exterior surfaces
- 2 sq. ft. (0.2 sq. meters) in any one interior room or space, or
- 10 percent of the total surface area on an interior or exterior type of component with a small surface area. Examples include window sills, baseboards, and trim.

The intent of work safe methods is to minimize the spread of leaded paint dust, paint chips, and debris. The following are the major provisions in the safe work practices regulations:

Qualifications to Perform Safe Work Practices

Workers must be trained in Safe Work Practices. For additional information on this training, contact: <http://www.leadlisting.org/>.

Occupant Protection

The occupant and the environment must be protected from lead-contaminated or lead-containing materials during hazard reduction activities. The areas of concern are:

- No occupants at worksite: Occupants shall not be permitted to enter the worksite during hazard reduction activities until after hazard reduction work has been completed and clearance, if required, has been achieved.

- Protection of Occupants Belongings: The dwelling and worksite shall be secured against unauthorized entry, and occupants' belongings shall be protected from contamination during hazard reduction activities by relocating or covering and sealing them.
- Temporary Relocation: Occupants shall be temporarily relocated before and during hazard reduction activities to a suitable, decent, safe, and similarly accessible unit free of LBP hazards, except if:
 - ◊ Treatment will not disturb LBP, dust-lead hazards or soil lead hazards.
 - ◊ Interior: Treatment of the interior will be completed within one period in eight daytime hours, the site will be contained, and the work will not create other safety, health, or environmental hazards.
 - ◊ Building exterior: The windows, doors, ventilation intakes and other openings near the worksite are sealed during hazard control work and cleaned afterward; and a lead free entry is provided.
 - ◊ Treatment will be completed within five calendar days; the work area is sealed; the area within 10 feet of the containment area is cleared of debris at the end of the day; occupants have safe access to sleeping areas, bathroom, and kitchen facilities; and treatment does not create other safety, health, or environmental hazards.

Worksite Preparation and Containment

The worksite for lead hazard reduction activities must be prepared to prevent the release of leaded dust and debris.

- Workers must use practices that minimize the spread of leaded dust, paint chips, soil, and debris.
- Warning signs are required at each entry to a room where lead hazard reduction activities are conducted when occupants are present, at the main and secondary entryways to a building from which occupants have been relocated, and at exterior worksites at a size and type readable from 20 feet (six meters) from the edge of the worksite. Signs need to be in the occupants' primary language to the extent practicable.

Prohibited Methods:

The methods identified below may not be used at any time for work on surfaces known or suspected to contain LBP.

- Open flame burning or torching.
- Machine sanding or grinding without a high-efficiency particulate air (HEPA) local exhaust control.
- Abrasive blasting or sandblasting without HEPA local exhaust control.
- Heat guns operating above 1,100 degrees Fahrenheit, or those that operate high enough to char the paint.
- Dry sanding or dry scraping.
- Paint stripping in a poorly ventilated space using a volatile stripper that is a hazardous substance in accordance with regulations

Worksite Cleanup

Good cleanup is critical to passing clearance and leaving the unit safe for habitation. The worksite shall be cleaned using methods, products, and devices that are successful in cleaning lead-contaminated dust, such as vacuum cleaners with HEPA filters or equivalent equipment and household or lead specific detergents or equivalent products.

Safe Work Practice Exemptions

- Safe work practices are not required if paint has been tested and found to be lead-free.
- Safe work practices are not required in houses completed after 1978.

Clearance (24 CFR 35.1340)

Clearance is performed to determine whether the lead hazard reduction process is complete and that no lead-dust or soil hazards remain in the areas of concern. The clearance report requires DHS Form 8552. A clearance examination involves a visual assessment, dust, and soil testing to determine if the unit is safe for occupancy. A certified inspector/risk assessor must perform clearance.

The clearance examiner must prepare a clearance report in accordance with (24 CFR Part 35.1340) if lead hazard reduction activities other than abatement are performed. Use DHS form 8552. If abatement is conducted, a certified supervisor or project designer must prepare an abatement report in accordance with 40 CFR 745.227(e)(10). Essentially, this requires DHS form 8551 (that was previously filled out) to be attached to the clearance form (DHS 8552). The clearance notice must note each failed clearance.

7. LEAD HAZARD EVALUATION (24 CFR 35.110 and 35.1320)

Lead Hazard Evaluation methods involve an examination of a dwelling to check for lead hazards for every activity. Evaluation methods include risk assessments, lead hazard screenings, visual assessments, presumption of LBP, and paint testing. In California, the Department of Health Services certifies workers/supervisors/inspectors/risk assessors. Refer to the Department's website, www.dhs.ca.gov/childlead/ for more information. Below is a brief description of each evaluation method.

Risk Assessment

Risk Assessment is a comprehensive investigation of a dwelling to identify LBP hazards that includes paint testing, dust and soil sampling, and a visual evaluation. Risk assessment results are summarized in a written report with recommendations for actions. Risk assessments are conducted by inspectors/risk assessors certified by the Department of Health Services.

Lead Hazard Screening

Lead Hazard Screening is similar to a risk assessment. While the sampling is less extensive, the requirements are more stringent. If LBP hazards are detected, a full risk assessment must then be conducted. Lead hazard screens are conducted by certified risk assessors.

Visual Assessment

A Visual Assessment of deteriorated paint consists of a visual search for cracking, scaling, peeling, or chipped paint. A visual assessment does not require notification of lead hazard evaluation since the assessment does not evaluate lead-based paint and/or lead hazards. However, if hazards are discovered and addressed, the contractor must still meet the hazard reduction activity notification requirement. Visual assessments are conducted those who have taken the HUD online test at: <http://www.hud.gov/offices/lead/training>

Presumption

Presumption is an administrative decision, and no formal training is required. It makes a determination of LBP and/or LBP hazards based on non-testing information and is an alternative to performing lead

hazard evaluation activities. In some cases, by presuming LBP and/or LBP hazards, hazard evaluations may not be required, but contractors must still conduct lead hazard reduction activities as required.

Paint Testing

Paint Testing entails testing painted surfaces to determine if they contain LBP using methods such as an x-ray fluorescence (XRF) analyzer or laboratory analysis. Paint testing must be conducted by certified inspectors/risk assessors.

8. LEAD HAZARD REDUCTION METHODS (24 CFR 35.1330, 35.1325, and 35.1335)

Lead hazard reduction methods refer to specific types of treatment to address LBP hazards. Nothing precludes contractors from conducting additional lead hazard reduction methods beyond the minimum established for each activity. Lead hazard reduction methods include:

Interim Controls

Interim controls temporarily reduce exposure to LBP hazards through repairs, painting, maintenance, special cleaning, occupant protection measures, clearance, and education programs. A detailed description of interim controls are in 24 CFR 35.1330. Interim control methods include, but is not limited to:

- Paint stabilization. Repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying a new protective coating or paint.
- Treatment for friction and impact surfaces. If LBP is found and exceeds acceptable levels or is presumed, the conditions creating friction or impact with surfaces with LBP such as those that rub, bind, or crush must be corrected. Examples of this work include hanging/binding doors, installing doorstops, or reworking windows.
- Safe work practices. All interim controls shall incorporate the use of safe work practices.
- Treatment for chewable surfaces. If a child under age six has chewed surfaces known to contain LBP or if LBP is presumed, these surfaces must be enclosed or coated, so they are impenetrable.
- Lead-contaminated dust control. All horizontal surfaces that are rough, pitted, or porous such as bare floors, stairs, window sills, and window troughs must be covered with a smooth, cleanable covering or coating such as metal coil stock, plastic, polyurethane, or linoleum. Carpeting must be vacuumed, or rugs must be removed and vacuumed on both sides. Vacuuming must be done using HEPA vacuums.
- Lead-contaminated soil control. If soil is lead-contaminated, interim controls that may be used include impermanent surface coverings such as gravel, bark, and sod as well as land use controls such as fencing, landscaping, and warning signs.

Standard Treatments (24 CFT 35.1335)

Under certain conditions, if LBP is presumed, then the standard treatment method is triggered. Standard treatments apply to all applicable surfaces, including soil, to control LBP hazards that may be present. These methods include:

- Paint Stabilization: All deteriorated paint on exterior and interior surfaces must be stabilized through repairs, safe paint removal, and repainting. Or abatement may be performed.
- Smooth and Cleanable Horizontal Surfaces: All horizontal surfaces that are rough, pitted, or porous such as bare floors, stairs, windowsills, and window troughs must be covered with a
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- smooth, cleanable covering or coating such as metal coil stock, plastic, polyurethane, or linoleum.
- Correcting Dust-Generating Conditions: All conditions that generate lead-contaminated dust such as those that rub, bind, or crush surfaces with LBP must be corrected. Examples include re-hanging doors, installing doorstops, or reworking windows.
- Bare Residential Soil: Soil is addressed using interim control methods including impermanent surface covering such as gravel, bark, and sod as well as land use controls such as fencing, landscaping, and warning signs.
- Safe work practices: All standard treatments shall incorporate the use of safe work practices.
- Clearance: A clearance examination shall be performed at the conclusion of lead hazard reduction activities.

Qualifications: An individual performing standard treatments must meet the training and/or supervision requirements.

Abatement (24 CFR 35.1325)

Abatement permanently (for at least 20 years) removes lead based paint and LBP hazards by a variety of measures, including removing LBP and its dust, encapsulating or enclosing the LBP, replacing components containing LBP, or removing or covering lead-contaminated soil. All abatement methods shall incorporate the use of safe work practices. Abatement shall then be conducted on all applicable surfaces, including soil, and completed when clearance is achieved.

Qualifications To Perform Lead Hazard Reduction

- Paint Stabilization, Interim Controls, and Standard Treatments require certification as workers or supervisors.
- Abatement must be conducted by certified workers and supervisors certified by California's Department of Health Services.

9. REHABILITATION

Requirements in the regulations for rehabilitation activities are found in 24 CFR Part 35, Subpart J. Rehabilitation activities require lead hazard evaluation and reduction activities be carried out for all projects constructed prior to 1978. Sections 6 through 11 of this chapter pertain directly to CDBG rehabilitation.

A. FEDERALLY REHABILITATION ASSISTANCE CATEGORIES (24 CFR 35.930)

Rehabilitation Projects Less Than Or Equal To \$5000

Rehabilitations of Residential property receiving an average of up to and including \$5,000 per unit in Rehabilitation Assistance are required to complete the following:

- Lead Hazard Evaluation. Paint testing must be conducted to identify lead based paint on all painted surfaces that will be disturbed or replaced.
 - ◊ The grantee may presume that LBP exists on all painted surfaces that will be disturbed or replaced and skip paint testing.
- Lead Hazard Reduction. Grantees must repair all paint that will be disturbed during rehabilitation. If LBP is detected or assumed, safe work practices must be used during rehabilitation.
- Noticing is required.
- Clearance is required only for the work area.

Rehabilitation Projects: Over \$5,000 to \$25,000 Per Unit

- Performing a Lead Hazard Evaluation: There are two requirements for the Lead Hazard Evaluation:
 - ◊ Paint testing: Paint testing must be conducted to identify lead based paint on all painted surfaces that will be disturbed or replaced. *Interim controls are used* on LBP hazards.
 - ◊ Risk Assessment: A risk assessment must be conducted prior to rehabilitation to find LBP hazards in assisted units, in common areas that service those units, and on exterior surfaces.
 - ◊ There are four options in determining the hazards of LBP:
 - In lieu of paint testing, the grantee is permitted to presume that LBP hazards exist on all painted surfaces to be disturbed or replaced and *use interim controls*. A risk assessment is still required.
 - In lieu of paint testing, the grantee is permitted to presume that LBP hazards exist on all painted surfaces. The grantee must *perform standard treatments*. A risk assessment is not required.
 - When using interim controls, the grantee is permitted to conduct paint testing on all non-intact paint surfaces. If no LBP is detected, then no interim controls are required on that surface. A risk assessment is still required.
 - The grantee is permitted to conduct a lead hazard screen instead of a risk assessment. If the lead hazard screen indicates that there is no lead contamination, no lead hazard reduction is required. If the lead hazard screen indicates the presence of lead levels that exceed interior lead dust standards, then a risk assessment must be conducted.
- Lead Hazard Reduction: If LBP or LBP hazards are detected during the evaluations on interior surfaces in the dwelling units, and the common areas that service those units or on exterior surfaces to be disturbed by rehabilitation, interim controls must be implemented to reduce LBP hazards. See options above for exemptions.
- Notice is required:
- Clearance: Clearance is required.

Rehabilitation Projects Over \$25,000 Per Unit

- There are two requirements for the Lead Hazard Evaluation:
 - ◊ Paint testing must be conducted to identify lead based paint on deteriorated painted surfaces or surfaces that will be disturbed or replaced.
 - ◊ A risk assessment must be conducted prior to rehabilitation to find LBP hazards in assisted units, in common areas that service those units, and on exterior surfaces, or grantees may assume that LBP hazards exist.
 - ◊ There are three options in the Lead Hazard Evaluation:
 - In lieu of paint testing, the grantee is permitted to presume that LBP hazards exist on all painted surfaces to be disturbed or replaced and abate these surfaces.
 - In lieu of paint testing, the grantee is permitted to assume that LBP or LBP hazards are present on all painted surfaces. Abatement is required on these surfaces. In such cases, evaluation is not required.
 - The grantee is permitted to conduct a lead hazard screen instead of conducting a risk assessment. If the lead hazard screen indicates that there is no lead contamination, no lead hazard reduction is required. If the lead hazard screen indicates that lead is present, then a risk assessment must be conducted.

- Lead Hazard Reduction.
 - ◊ If LBP hazards are detected during the evaluations on interior surfaces in the dwelling units and the common areas that service those units or on exterior surfaces, including soil, to be disturbed by rehabilitation, *abatement* must be completed to permanently reduce LBP hazards.
 - ◊ If LBP hazards are detected on the exterior surfaces that are not disturbed by rehabilitation during the risk assessment, *interim controls* may be completed instead of abatement to reduce these hazards.
- Noticing is required:
- Clearance is required.

B. CALCULATING THE LEVEL OF FEDERAL REHABILITATION ASSISTANCE (24 CFR 35.930)

The lead hazard evaluation and reduction activities required for rehabilitation projects depend on the level of Federal Rehabilitation Assistance (FRA) projected for each project. The FRA breaks up into three categories:

- FRA of up to and including \$5,000 per unit,
- FRA of more than \$5,000 per unit, up to and including \$25,000,
- FRA of more than \$25,000 per unit.

The FRA is determined by comparing the per unit rehabilitation *hard costs* and the overall per unit *Federal Assistance*. The lower of these calculations is used as the FRA amount.

Hard Costs: Rehabilitation hard costs are calculated using the actual costs associated with the physical development of a unit, regardless of the source of these funds. These do not include soft costs, such as administration, relocation, environmental review, and acquisition costs. Soft costs include financing fees, credit reports, title binders and insurance, recordation fees, transaction taxes, impact fees, legal and accounting fees, appraisals, and architectural and engineering fees.

Federal Assistance: Federal Assistance is determined by tabulating all Federal funds provided to the project for housing assistance. This also includes funds from program income, but excludes funding such as low-income housing tax credit funds (LIHTC) or non-Federal Home Program match funds which are not consider housing assistance.

For determining which level is used in multiple family units to be rehabilitated, an average is used. See 24 CFR 35.915 and HUD's April 2001 Interpretive Guidance for specific details.

C. INTENT: ABATEMENT, REHABILITATION OR WEATHERIZATION?

Pursuant to a joint letter from HUD and EPA, dated April 19, 2002, jurisdictions have an additional option when rehabilitating dwellings in which LBP may be present. This provision impacts dwellings below the \$25,000 Federal rehabilitation assistance category.

If a jurisdiction's "intent" is to rehabilitate or weatherize a dwelling without mitigating any LBP hazards, then it is not required to perform interim controls in *the area to be rehabilitated*. *Intent* is shown in the work write up. If only rehabilitation aspects are included in the write up, then the *intent*

is to rehabilitate and not mitigate LBP hazards. However, “work safe” practices must still be used. If LBP mitigation measures are included in the work write up, then the *intent* is to mitigate LBP hazards, and all usual mitigation rules apply.

Additionally, if your intent is to abate LBP hazards, then you must follow the abatement worker rules as indicated in the LBP rehabilitation matrix, regardless of the hard cost level of your project.

D. CONSTRUCTION WASTE

According to a January 23, 2001 EPA Policy Guidance letter, #2001-02, “...all wastes generated from lead hazard control activities at residential properties are household wastes which are excluded from the hazardous waste requirements of the Resource Conservation and Recover Act. As a result, residential LBP waste may be discarded in a municipal solid waste landfill or combustor, but not dumped nor open-burned. Certain LBP waste (such as large quantities of concentrated waste—paint chips, dust, or sludges) from residential de-leading may be subject to more stringent State, local, and/or tribal requirements.” As a result of this guidance, check with your local waste site to determine how they want to deal with the waste being generated from your LBP mitigation activities.

10. DISCLOSURES AND NOTICES (24 CFR 35.92 AND 24 CFR 35.125)

Disclosures

Notification is required on all rehabilitation and first time homebuyer activities, regardless of the level of assistance.

- **Lead Hazard Information Pamphlet:** Residents and purchasers of a residential property must receive a copy of the EPA/HUD/Consumer Product Safety Commission Lead Hazard Information Pamphlet, “How to Protect your Family from Lead in Your Home.” Have the recipient acknowledge receipt of this pamphlet in writing and retain this acknowledgment in the rehabilitation files.
- **Disclosure of LBP and Hazards:** Property owners must provide purchasers and lessees with available information or knowledge regarding the presence of LBP and hazards prior to selling or leasing a residence. In the contract or lease, sellers and leasers of pre-1978 housing must include disclosure and acknowledgement language and a warning statement about the dangers of LBP. Sellers must allow purchasers 10 days to inspect the dwelling for LBP or lead based paint hazards. The appropriate contractual addendum on this waiting period must be part of the contract documents. See Matrices and Checklists Section in this chapter for sample language.

Notices

- **Paint Testing, Lead Hazard Evaluation, Visual Assessment, or Presumption:** Use DHS form 8552. When an evaluation results in findings of LBP hazards or if a presumption of LBP hazards is made, then contractors must provide to the residents and post notice no later than 15 days after this report has been received. These notices shall be posted for four weeks.
- **Abatement:** Use DHS form 8551, Abatement of Lead Hazards Notification in conjunction with DHS form 8552.

- Clearance: Use DHS form 8552. Notice of Lead Hazard Reduction Activity: When lead hazard reduction activities have been completed (clearance has been achieved), a contractor must provide to the residents or post a notice of these lead hazard reduction activities no later than 15 days after completion. The notices shall be updated if additional work is required. Any failed clearances must be described in the notice. These notices shall be posted for four weeks.
- Availability of Notices: Notices of evaluation, presumption, and hazard reduction shall:
 - ◊ Be of a size and type easily read by occupants.
 - ◊ To the extent practicable, be made available upon request in a format accessible to persons with disabilities (e.g., Braille, large type, computer disk, audio tape).
 - ◊ Be provided in the occupants' primary language or in the language of the occupants' contract or lease.
 - ◊ Be provided to the occupants by posting and maintaining it in centrally located common areas and distributing it to any dwelling unit, if necessary, because the head of household is a person with a known disability.
 - ◊ Be distributing to each occupied dwelling affected by the evaluation. If the notice is for a lead hazard in a common area that is used by those in the dwelling unit, the occupants of the dwelling unit shall also receive notice.

11. ACQUISITION AND SUPPORT SERVICES (24 CFR 35.1000)

The lead-based paint requirements for acquisition, leasing, support services or operations is found in 24 CFR Part 35, Subpart K.

Acquisition

These regulations are intended to provide assurances that the LBP paint in homes purchased with CDBG funds have been stabilized, and that the unit is "lead safe" when it is occupied by the assisted household. Key requirements for LBP in Homebuyer Assistance are LBP hazard evaluation, treatment, and clearance. The following is required to identify deteriorated paint in homes:

- Visual Assessment. An inspection of all interior painted surfaces, including common areas such as hallways, laundry rooms or garages, and exterior surfaces of the building in which the dwelling unit is located must be conducted to identify deteriorated paint. Notification is only required if LBP hazards are identified.
- Paint Stabilization. All deteriorated paint surfaces must be stabilized before the homebuyer moves into the home. If paint testing of a deteriorated surface reveals no LBP, then paint stabilization is not required on that surface.
- Safe Work Practices. The owner/contractor must use safe work practices when conducting paint stabilization. Safe work practices include safe work methods, occupant protection, worksite preparation, and cleanup.
- Clearance. After the completion of work, the home must pass clearance. Clearance must happen before occupancy if the home is vacant or immediately after receipt of Federal assistance for a home currently occupied.
- Costs. In order to provide maximum flexibility, the party responsible for paying for lead hazard evaluation and reduction in homebuyer programs depends upon program design and local requirements. Costs may be borne by the administering agency, the seller, the homebuyer, or a combination of the preceding.
- Notification: The notification process is the same as for rehabilitation activities.

Support Services and Operations

Support Services and Operations programs that assist in buying, renting, improving, operating or maintaining housing are covered by these regulations. Programs that provide services, such as medical care, education, or food service are not considered housing assistance and are not covered by the regulations. However, HUD recommends that efforts be made to assure that facilities providing these types of support services are lead-safe, if they are frequented by children less than 6 years of age.

Exemptions

If the housing assistance being provided is for less than 100 days, the assistance is exempt. For example, if a transitional housing unit that does not meet the definition of a zero-bedroom exemption, provides housing to several families for no more than 100 days, it is exempt from the provisions of Subpart K. The 100-day time limit applies to the dwelling, not the individuals or families.

12. RECORD KEEPING

Record Keeping

Notices, evaluation, clearance and abatement reports must be kept at least three years and must be made available for Department review.

- Record Keeping: Records must be kept for at least three years, but it is recommended that lead-based paint records be kept indefinitely. The following records should be kept:
 - ◇ Information on age of property, age of children living at property, existing information on Children's blood lead levels, existing information on lead-based paint,
 - ◇ Inspection report or documentation of Visual Assessment,
 - ◇ Disclosure statement,
 - ◇ Clearance report,
 - ◇ All notifications,
 - ◇ Documentation of required certifications or training, and
 - ◇ Documentation indicating receipt of the pamphlet.

13. QUESTIONS

- Q1. How does sweat equity come into play when a homeowner opts to paint the house as part of the rehabilitation? What is the homeowners responsibility in minimizing LBP hazards?
- A. The homeowner must receive training on and use work safe requirements, including containment, practices, and clearance. Contact HUD's Lead Based Paint Training Specialist, Rachael Riley at (202) 755-1785 x 107 for materials to hold your own work safe course.
- Q2. Are there other options to using sweat equity without the owners taking classes?
- A. The options are: Homeowners performing sweat equity may 1) take the one-day HUD work safe class (or for projects over \$25,000 in hard costs, take the DHS three-day course); 2) work on homes completed after 1/1/78; 3) work on homes that are certified LBP-free or abated (as long as LBP hazards are not created); or 4) only work in cleared areas accessible without exposure to LBP hazards on tasks without disturbing LBP or creating LBP hazards.
- Q3. When is abatement required?
- A. When the intent is to permanently eliminate the LBP hazard (abate), and when the FRA is over \$25,000.

- Q4. When do you have to “work safe?”
A. Always, unless the area to be worked on is less than the de minimis levels.
- Q5. How can I get information on certified training?
A. Check out DHS at their website: <http://www.dhs.ca.gov/childlead/html/materials.html> You may also contact the CDBG program at (916) 263-0485 for updated information.
- Q6. Do the LBP hazard regulations apply to public service activities?
A. Only to the extent that these services are considered housing assistance, e.g., housing operations assistance.
- Q7. Do LBP hazard regulations apply to mixed use activities?
A. Only for the residences and in common use areas served by residents, e.g., exterior areas, entryways, laundry rooms, hallways, etc.
- Q8. If a window and frame painted with LBP needs to be removed as part of the rehab, is this a rehab or lead hazard cost?
A. If the component of the rehab would have been done regardless of the LBP, then it is considered a rehab cost.
- Q9. Is LBP an activity delivery or construction cost?
A. LBP evaluation/clearance costs are the same category as pest control inspections, i.e., You can count them as activity delivery, construction costs and roll them into the loan, grant them, etc. LBP mitigation is a construction cost. These costs can either be grants or loans
- Q10. We need a list of certified LBP contractors in our area.
A. Certified workers, supervisors, inspectors/risk assessors:
www.dhs.ca.gov/childlead/html/GENclist.html
- Q11. We need a list of those qualified to work safe (workers only) in our area.
A. www.leadlisting.org/leadlisting/leadlisting.nsf/RenovatorForViews?OpenForm&CA
- Q12. Which certifications are required to address LBP hazards?
A. It depends upon which level of LBP mitigation is taken. See Housing Rehabilitation or Homebuyer’s Assistance matrices in table of contents.
- Q13. We need more funding to pay for certified contractor classes. Are any funds available?
A. No federal funds are currently available. However, the National Association of Attorneys General has information on its website about worksafe trainings to begin in September 2003. Reference: www.naag.org/news/pr-20030512-lead_paint.php
- Q14. Who fills out the forms and notices?
A. For DHS forms, the certified risk assessor/inspector fills out forms #8551 and #8552, except in the case of visual assessments and presumptions. Visual assessments only require the online HUD training while the presumptions are an administrative task and may be filled out by any appropriate jurisdiction official.
- Q15. What certifications are required on tribal land?
A. EPA certification for LBP.

- Q 16. Does a contractor, certified in another state, still have to take the California DHS certified test to work in State?
- A. Yes. California does not recognize other states' certifications.
- Q 17. If a city is to purchase a 4-plex and rehabilitate it, do the Housing Acquisition or Housing Rehabilitation LBP rules apply?
- A. In cases of multiple coverage for LBP rules, use the most restrictive rules. In this case, the housing rehabilitation rules would apply.
- Q 18. In performing a visual assessment on a home for a first time homebuyers program, you find that the home is very old and likely has LBP. In the backyard is an obvious play area that has bare soil. There is no evidence of chipping paint on the ground. Should the bare soil be noted in the visual assessment as a LBP hazard?
- A. We urge a conservative approach and recommend that the area be covered in sod, or re-landscaped to cover the bare dirt.

14. DEFINITIONS

Abatement: Any set of measures designed to permanently eliminate lead-based paint or lead-based paint hazards (see definition of ``permanent"). Abatement includes the removal of lead-based paint and dust-lead hazards, the permanent enclosure or encapsulation of lead-based paint, the replacement of components or fixtures painted with lead-based paint, and the removal or permanent covering of soil-lead hazards.

Bare soil: Soil or sand not covered by grass, sod, other live ground covers, wood chips, gravel, artificial turf, or similar covering.

Certified: DHS licensed or certified to perform such activities as risk assessment, lead-based paint inspection, or abatement supervision.

Chewable surface: An interior or exterior surface painted with lead-based paint that a young child can mouth or chew. A chewable surface is the same as an ``accessible surface" as defined in 42 U.S.C. 4851b(2)). Hard metal substrates and other materials that cannot be dented by the bite of a young child are not considered chewable.

Clearance Examination: An activity conducted following lead-based paint hazard education activities to determine that the hazard reduction activities are complete and that no soil-lead hazards or settled dust-lead hazards exist in the dwelling unit or worksite.

Common Area: A portion of a residential property that is available for use by occupants of more than one dwelling unit. Such an area may include, but is not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, on-site day care facilities, garages and boundary fences.

Containment: The physical measures taken to ensure that dust and debris created or released during lead-based paint hazard reduction are not spread, blown or tracked from inside to outside of the worksite.

Dwelling Unit: (1) Single-family dwelling, including attached structures such as porches and stoops; or (2) Housing unit in a structure that contains more than 1 separate housing unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the home or separate living quarters of 1 or more persons.

Encapsulation: The application of a covering or coating that acts as a barrier between the lead-based paint and the environment. Encapsulation may be used as a method of abatement if it is designed and performed so as to be permanent (see definition of ``permanent").

Enclosure: The use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment. Enclosure may be used as a method of abatement if it is designed to be permanent (see definition of "permanent").

Evaluation: A risk assessment, a lead hazard screen, a lead-based paint inspection, paint testing, or a combination of these to determine the presence of lead-based paint hazards or lead-based paint.

Federally Rehabilitation Assistance: The amount used to determine which rehabilitation category used to address LBP hazards. This figure is calculated by taking the lower of the total federal assistance in a dwelling and the total hard costs to rehab the dwelling.

Hazard reduction: Measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls or abatement or a combination of the two.

HEPA vacuum: A vacuum cleaner device with an included high-efficiency particulate air (HEPA) filter.

Housing for the elderly: Retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or more, or other age if recognized as elderly by a specific Federal housing assistance program.

Impact Surface: An interior or exterior surface that is subject to damage by repeated sudden force, such as certain parts of door frames.

Interim Controls: A set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards. Interim controls include, but are not limited to, repairs, painting, temporary containment, specialized cleaning, clearance, ongoing lead-based paint maintenance activities, and the establishment and operation of management and resident education programs.

Lead-Based Paint: Paint or other surface coatings that contain lead equal to or exceeding 1.0 milligram per square centimeter or 0.5 percent by weight or 5,000 parts per million (ppm) by weight.

Lead-Based Paint Hazard: Any condition that causes exposure to lead from dust-lead hazards, soil-lead hazards, or lead-based paint that is deteriorated or present in chewable surfaces, friction surfaces, or impact surfaces, and that would result in adverse human health effects.

Lead Hazard Information Pamphlet: "How to Protect Your Child From Lead in Your Home." The HUD pamphlet used to notice a resident who is about to participate in a LBP activity.

Lead Hazard Reduction Activity: The activity chosen to address the existence of LBP and/or LBP hazards.

Lead Hazard Screen: A limited risk assessment activity that involves paint testing and dust sampling and analysis. If lead hazards are found, then a full risk assessment is required.

Multifamily property: A residential property containing five or more dwelling units.

Noticing: Notifying the occupants (or potential occupants) of a dwelling of LBP related actions or history pertaining to that dwelling. This noticing may take the form of a pamphlet or posted notices regarding LBP hazards found, treated, and cleared in a dwelling.

Paint Stabilization: Repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying a new protective coating or paint.

Paint Testing: The process of determining, by a certified lead-based paint inspector or risk assessor, the presence or the absence of lead-based paint on deteriorated paint surfaces or painted surfaces to be disturbed or replaced.

Permanent: An expected design life of at least 20 years.

Play Area: An area of frequent soil contact by children of less than 6 years of age, as indicated by the presence of play equipment (e.g. sandboxes, swing sets, sliding boards, etc.) or toys or other children's possessions, observations of play patterns, or information provided by parents, residents or property owners.

Presumption: An administrative decision to presume LBP is present. At times, this presumption may not require a risk assessment.

Risk Assessment: An on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards; and the provision of a report by the individual or firm conducting the risk assessment explaining the results of the investigation and options for reducing lead-based paint hazards.

Risk Assessor/Inspector: This person performs risk assessments and clearance examinations. This person must take and pass the 40 hour Risk Assessor/Inspector class. DHS registration AND testing is required.

Safe Work Practices: A system of working to remove LBP that minimizes spreading LBP dust and debris which would contaminate the workers and residents of a dwelling.

Single Family Property: A residential property containing one through four dwelling units.

Single Room Occupancy (SRO) Housing: Housing consisting of zero-bedroom dwelling units that may contain food preparation or sanitary facilities or both (see Zero-bedroom dwelling).

Soil-Lead Hazard: Bare soil on residential property that contains excessive amounts of lead.

Standard Treatments: A series of hazard reduction measures designed to reduce all lead-based paint hazards in a dwelling unit without the benefit of a risk assessment or other evaluation.

Substrate: The material directly beneath the painted surface out of which the components are constructed, including wood, drywall, plaster, concrete, brick or metal.

Supervisor: This person supervises certified and non-certified LBP workers. This person must have taken and passed the 40 hour LBP Supervisor class. DHS registration AND testing is required.

Visual Assessment: Looking for deteriorated paint, visible surface dust, debris and residue which may be a part of a risk assessment or clearance examination. A person must have taken the HUD VA test on the web. www.hud.gov/offices/lead/training/visualassessment/h00100.htm

Worker: There are two types of workers, certified and non-certified.

Certified: A person who has taken the DHS, 3-day, 24 hour certified LBP certified worker class. While no DHS test is required, DHS registration is required. This person may work on any LBP project, but only under supervision.

Non Certified: A person who has taken the HUD 1 day, 8 hour “Work Safe” class. This worker may not work on abatement projects.

Zero-Bedroom Dwelling: Any residential dwelling in which the living areas are not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory or single room occupancy housing, military barracks, and rentals of individual rooms in residential dwellings (see Single room occupancy (SRO)).

15. MATRICES AND CHECKLISTS

CDBG LBP Housing Rehabilitation Matrix

			0 → \$5,000	\$5,001 → \$25,000	\$25,001+
Lead Hazard Evaluation	Type		Paint Testing on surfaces affected by rehabilitation		
			_____	In addition to Paint Testing, Risk Assessment (RA)	
	Cert. Required		Paint Testing: DHS certified RA/Inspector		
			_____	Risk Assessment: DHS certified RA/Inspector	
Notices			Pamphlet Renter’s LBP Disclosure Form (See section 15) Paint testing/Risk Assessment: DHS form 8552 (See section 15) Presumption (optional) DHS form 8552 (See section 15) Hazard notification: DHS form 8551 prior to work start (See section 15) Clearance: DHS form 8552: (See section 15)		
Reports			Paint Testing Clearance: DHS form 8552 (See section 15)		
			_____	Risk Assessment, DHS form 8552 (See section 15)	
Lead Hazard Reduction	Type		Safe work practices	Interim Controls	-Interior/Exterior paint disturbed by HR: Abatement -Exterior paint not disturbed by HR: Interim Controls
	Certificate Required	Worker	None, but must work safe	Optional, but at a minimum, must work safe.	Int/Ext: Required
					Ext. w/Interim: Optional, but at a minimum, must work safe
		Supervisor	None, but must work Safe	Required	Int./Ext.: Required
					Ext. w/Interim: Required
Clearance Required			Yes. Use DHS form 8552. (See section 15) Certified Risk Assessor or Project Monitor on all clearances		

CDBG LBP Homebuyers Assistance Matrix

Lead Hazard Evaluation	Type		Visual Assessment
	Level of Cert. Required		HUD Online Test: http://www.hud.gov/offices/lead/training/visualassessment/h00100.htm
<u>Notices</u>			-Pamphlet -Seller's LBP Disclosure Form (See Section 15) -Hazard Notification: DHS Form 8551 prior to work start -Clearance: DHS form 8552
<u>Reports</u>			-Visual Assessment: DHS Form 8552 (See section 15) -Clearance: DHS Form 8552 (See section 15)
Lead Hazard Reduction	Type		Paint Stabilization of each deteriorated paint surface.
	Certificate Required	Worker	Optional, but must work safe
		Supervisor	Required
Clearance Required			Yes. Use DHS form 8552. (See section 15) Certified Risk Assessor or Project Monitor on all clearances

CDBG LBP Presumptions/Options

By Federal Rehabilitation Assistance Category	
\$0-\$5000	In lieu of paint testing on surfaces to be disturbed by the rehabilitation, presume LBP on all surfaces affected by rehabilitation. No RA is required. Use safe work practices.
Over \$5,000 to \$25,000	In lieu of paint testing on surfaces to be disturbed by the rehabilitation, presume LBP on all surfaces affected by rehabilitation. RA is required. Use interim controls on hazards revealed by the RA or created by the rehabilitation.
Over \$25,000	In lieu of paint testing on surfaces to be disturbed by the rehabilitation, presume LBP on all surfaces affected by rehabilitation. RA is required. Abate all hazards revealed by the RA or created by the rehabilitation. On external areas not disturbed by the rehabilitation, may use interim controls.

<u>By Evaluation Type</u>	
Lead Hazard Screen	When RA are required, may use this abbreviated version, lead hazard screen. If LBP hazards are found, then full RA is required.
Paint Testing	When paint stabilization or interim controls, may opt to do paint testing on all surfaces with non intact paint. If no LBP then stabilization/interim controls not required.

<u>By Mitigation Method</u>	
Interim Controls	When interim controls are required, may presume LBP or LBP hazards exist throughout property and then enact standard treatments on hazards. No RA is required.
Abatement	When abatement is required, may presume that LBP or LBP hazards are present throughout, then abate hazards. No RA is required.

CDBG LBP Checklist for Rehabilitation

Applicant: _____ Date _____ Address: _____

1. If the house was completed prior to 1/1/78, go on to #2. If the house was completed on or after 1/1/78, **STOP**, you are done w/your LBP. Provide proof of age. Use certificate of insurance, final sign off, or occupancy date.
2. Does the dwelling meet any of the exemptions listed in chapter 20 of the Grant Management Manual? If so, **STOP**, you are done w/your LBP requirements. List exemption here: _____ . If not, proceed to #3.
3. Provide “How to Protect Your Family From Lead” pamphlet to recipients/occupant. Retain signed receipt from recipients/occupants stating that pamphlet was received. For tenants, use “Renter’s Lead-Based Paint Disclosure “ form found in Section 19 of this chapter. Use, at a minimum, as long as the RLA is effective.
4. Obtain work write up. Determine if a presumption strategy is beneficial for this dwelling. If presuming LBP, then post and retain a copy of DHS form 8552.
5. Determine if risk assessment (RA) is needed. May proceed with RA, or proceed with abbreviated evaluation, the Lead Hazard Screen (LHS). If LHS results are negative for LBP, then may begin the rehab w/o LBP concerns. If the LHS results are positive for LBP, then proceed with an RA. In either case, within 15 days, post, notice, and retain copies of the appropriate notice. Use DHS form 8552. For RA or LHS:
 - Procure DHS certified risk assessor/inspector for the RA/LHS and obtain proof of certification
 - Retain copies of RA/LHS and paint testing results.
6. Procure the DHS certified LBP contractor and determine which LBP mitigation method(s) to use in the home.
7. Prior to work starting, post, notice, and retain copy of DHS form 8551, Abatement of Lead Hazards Notification, which provides information about LBP work to be done.
8. Have the LBP work done and obtain proof of DHS certification for supervisor and all workers. On projects under \$25,000 in hard costs, workers and homeowners performing sweat equity are required to take a one-day HUD approved Work Safe course. For additional information regarding sweat equity, see question #2 in Section 13. Workers (and homeowners) may also take DHS’s three-day certified training in place of the one day Work Safe class. For projects with hard costs over \$25,000, workers must take the DHS three-day course, and homeowners performing sweat equity may 1) take the DHS three-day course, 2) work in LBP-free areas accessible without exposure to LBP hazards, or 3) only work in cleared areas (accessible without exposure to LBP hazards) on tasks without disturbing LBP.
9. Within 15 days of LBP hazard work being finalized, post, notice, and retain copy of Clearance Report, using DHS form 8552, Lead Hazards Evaluation Report (and DHS form 8551, when clearing abatement projects). Clearance report cannot be done by the same business entity that performed any evaluated component. Obtain proof of DHS RA certification.

CDBG LBP Checklist for Homebuyers Assistance

Name of Applicant _____

Date _____

Address _____

1. If the house was completed prior to 1/1/78, go on to #2. If the house was completed on or after 1/1/78, **STOP**, you are done w/your LBP. Provide proof of age. Use certificate of insurance, final sign off, or occupancy date.
2. Does the dwelling meet any of the exemptions listed in chapter 20 of the Grant Management Manual? If yes, **STOP**, you are done w/your LBP requirements. List exemption here: _____ . If not, proceed to #3.
3. Provide “How to Protect Your Family From Lead” pamphlet to recipients. Retain signed receipt from recipients/occupants stating that pamphlet was received
4. Prior to the purchaser being obligated to an offer, retain a copy of the Lead Disclosure Notice that seller provides. This disclosure addresses any known LBP and/or LBP hazards in the house and any records pertaining to LBP mitigation. It will also state that the purchaser has 10 days to perform a LBP inspection, or that purchaser has waived that right. Ensure “Homebuyer Assistance Program Sample LBP Contract Contingency Language” is used in the purchase contract. (Notes; Notice and contract language is contained in the First Time Homebuyer sample guidelines)
5. Do LBP visual assessment, using DHS form 8552, Lead Hazard Evaluation Report. Within 15 days, post, notice, and retain form. If no deteriorated paint is found, **STOP**, you are done w/LBP mitigation. If deteriorated paint is found, do work write up, and go to #6.
6. Procure DHS certified LBP contractor for paint stabilization. Prior to work being started, post, notice, and retain DHS forms 8551, *Abatement of Lead Hazards Notification*.
7. Obtain proof of certification for supervisor and all workers. (This should include any safe work course if using safe work practices.) DHS three-day certified training is suitable substitute for safe work course.
8. Within 15 days of LBP hazard work being finalized, post, notice, and retain copy of Clearance Report, using DHS form 8552. Clearance report cannot be done by the same business entity that performed any evaluated component. Obtain proof of DHS RA certification.

Renters Lead-Based Paint Disclosure

Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards Lead Warning Statement

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.

Lessor's Disclosure

(a) Presence of lead-based paint and/or lead-based paint hazards (Check (i) or (ii) below):

(i) _____ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain). _____

(ii) _____ Lessor has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b) Records and reports available to the lessor (Check (i) or (ii) below):

(i) _____ Lessor has provided the lessee with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

(ii) _____ Lessor has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Lessee's Acknowledgment (initial)

(c) _____ Lessee has received copies of all information listed above.

(d) _____ Lessee has received the pamphlet Protect Your Family from Lead in Your Home.

Agent's Acknowledgment (initial)

(e) _____ Agent has informed the lessor of the lessor's obligations under 42 U.S.C. 4852d and is aware of his/her responsibility to ensure compliance.

Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

_____ Lessor	_____ Date	_____ Lessor	_____ Date
_____ Lessee	_____ Date	_____ Lessee	_____ Date
_____ Agent	_____ Date	_____ Agent	_____ Date

Seller's Lead-Based Paint Disclosure

Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards Lead Warning Statement

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

Seller's Disclosure

(a) Presence of lead-based paint and/or lead-based paint hazards (check (i) or (ii) below):

(i) ____ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain). _____

(ii) ____ Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b) Records and reports available to the seller (check (i) or (ii) below):

(i) ____ Seller has provided the purchaser with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below). _____

(ii) ____ Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Purchaser's Acknowledgment (initial)

(c) ____ Purchaser has received copies of all information listed above.

(d) ____ Purchaser has received the pamphlet Protect Your Family from Lead in Your Home.

(e) ____ Purchaser has (check (i) or (ii) below):

(i) ____ received a 10-day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards; or (ii) ____ waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

Agent's Acknowledgment (initial)

(f) ____ Agent has informed the seller of the seller's obligations under 42 U.S.C. 4852d and is aware of his/her responsibility to ensure compliance.

Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

_____ Seller	_____ Date	_____ Seller	_____ Date
_____ Purchaser	_____ Date	_____ Purchaser	_____ Date
_____ Agent	_____ Date	_____ Agent	_____ Date

Homebuyer Assistance Program

Sample Lead-Based Paint Contract Contingency Language

This contract is contingent upon a risk assessment or inspection of the property for the presence of lead-based paint and/or lead-based paint hazards at the Purchaser's expense until 9 p.m. on the tenth calendar-day after ratification. This ending date is: _____. [Insert date 10 days after contract ratification or a date mutually agreed upon]. (Intact lead-based paint that is in good condition is not necessarily a hazard. See the EPA pamphlet "Protect Your Family From Lead in Your Home" for more information.)

This contingency will terminate at the above predetermined deadline unless the Purchaser (or Purchaser's agent) delivers to the Seller (or Seller's agent) a written contract addendum listing the specific existing deficiencies and corrections needed, together with a copy of the inspection and/or risk assessment report.

The Seller may, at the Seller's option, within _____ days after Delivery of the addendum, elect in writing whether to correct the condition(s) prior to settlement. If the Seller will correct the condition, the Seller shall furnish the Purchaser with certification from a risk assessor or inspector demonstrating that the condition has been remedied before the date of the settlement. If the Seller does not elect to make the repairs, or if the Seller makes a counteroffer, the Purchaser shall have _____ days to respond to the counter-offer or remove this contingency and take the property in "as is" condition or this contract shall become void. The Purchaser may remove this contingency at any time without cause.

Seller Name: _____ Date: _____

Purchaser: _____ Date: _____

Property Address: _____

16. REFERENCES

- Federal Register, 24 CFR Part 35, et. al. Final Rule
- HUD's lead website at www.hud.gov/offices/lead/,
- Lead Listing's website at www.leadlisting.org and
- HUD's April 2001 Interpretive Guidance: The HUD Regulation on Controlling LBP Hazards in Housing Receiving Federal Assistance and Federally Owned Housing Being Sold regulations http://www.hud.gov/offices/lead/leadsaferule/1012qa_2001.pdf

17. DEPARTMENTS ROLE

The Department's CDBG staff will review the grantee and contractor's compliance with the Federal LBP regulations. At least one monitoring of the grantee's program will be completed during the life of the grant. In addition to the monitoring, staff will be available to assist in solving any program problems as they occur.

18. SUPPORTING MATERIALS

Type	Document	Source
Forms	Lead Hazard Evaluation Report DHS form 8552	http://www.dhs.ca.gov/childlead/html/GENregs.html#Title%2017
	Abatement of Lead Hazards Notification, DHS form 8551	http://www.dhs.ca.gov/childlead/html/GENregs.html#Title%2017
	Lessor's Disclosure Information on LBP	Federal Register Vol. 61.No.45, 3/6/96
	Summary Notice of LBP Risk Assessment	Federal Register, Vol. 64, No. 178, 9/15/99, Rules and Regulations, pg. 50231
	Notice that LBP or LBP Hazards are Presumed to be Present	Federal Register, Vol. 64, No. 178, 9/15/99, Rules and Regulations, pg. 50231
	Summary Notice of Completion of LBP Hazard Reduction Activity	Federal Register, Vol. 64, No. 178, 9/15/99, Rules and Regulations, pg. 50231
Lead Professionals	Index of lead Certified Professionals in California	www.dhs.ca.gov/childlead/html/B40.html
Pamphlets (cover only)	Protect Your Family From Lead in Your Home	www.hud.gov/offices/lead
	Reducing Lead Hazards When Remodeling Your Home	www.epa.gov/opptintr/lead/leadpbed.htm
	Lead in Your Home: A Parent's Reference Guide	www.epa.gov/opptintr/lead/leadpbed.htm
	Lead Paint Safety: A Field Guide for Painting, Home Maintenance, and Renovation Work	www.hud.gov/nea/LBPguide.pdf
Fact Sheet	Federal Requirements for Volunteer Paint and Rehabilitation Programs (March 2000 Fact Sheet)	http://www.hud.gov/lea/FSVPrograms.doc
	HUD 4/19/01 LBP Intent Letter	http://www.hud.gov/utilities/intercept.cfm?/lea/EPA_HUDabatamentletter.pdf
Regulations	24 CFR 35	http://www.access.gpo.gov/nara/cfr/waisidx_01/24cfr35_01.html
	Interpretive Guidance: 24 CFR 35 -4/16/01-Table of Contents only	http://www.hud.gov/offices/lead
Subsidies	Clearance Report Subsidies	http://www.hud.gov/news/release.cfm?content=pr02-022.cfm